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June 4, 2015

VIA Fax by Permission

Hon. Gregory H. Woods
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

**Re: Materials Under Consideration in Pending Motion in
Gersbacher v. The City of New York et al., 14CV7600 (GHW)(KNF)**

Dear Honorable Judge Woods:

Please recall that my office represents the Plaintiff in this case. We submit the instant letter in relation to the present motion pending before Your Honor in the above-referred case, in advance of our June 29, 2015 conference before Your Honor. Plaintiff notes that at pages 17-18 of Defendants' Memorandum of Law, Defendant proposes, among other contentions, that Mr. Gersbacher received "no visible injuries as a result of the arrest...." based on their review of the videos that Defendants submitted in support of their motion. Plaintiff disputes this contention and the inclusion of its foundation, to wit, the videos submitted by Defendants, in consideration of Defendants' Motion, as noted in Plaintiff's Memorandum of Law in Opposition to Defendants' Motion.

Plaintiff maintains that the videos submitted by Defendants are not properly within the Court's consideration on review under FRCP 12, and maintains his objection to their consideration on the present motion. However, to the extent that videos submitted by Defendants will be considered by the Court in determining the survival of Plaintiff's excessive force claim, Plaintiff respectfully seeks leave to introduce various medical records from Drs. Jone, Czyrny and Galpin of University Orthopaedics documenting the wrist, shoulder and nerve injuries suffered by Plaintiff in the course of the incident giving rise to this action.

Thank you for your time and attention in this matter. If you have any questions, or require any further materials, please do not hesitate to have your clerks contact me.

Respectfully Submitted,

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Wylie M. Stecklow